

# Def-Int. Ex. 151

**STATE OF TEXAS, ET AL. vs UNITED STATES OF AMERICA, ET AL.**  
**Michael Knowles on 08/02/2018**

1 UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 BROWNSVILLE DIVISION  
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IN THE MATTER OF:

STATE OF TEXAS, ET AL.,

Plaintiff,

v.

Civil Action No.  
1:18-CV-00068

UNITED STATES OF AMERICA,  
ET AL.,

Defendants,

and

KARLA PEREZ, et al.,

Defendant-  
Intervenors,

and

STATE OF NEW JERSEY,

Defendant-  
Intervenor.

Thursday,  
August 2, 2018

Washington, D.C.

DEPOSITION OF:

MICHAEL KNOWLES

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1 called for examination by Counsel for the  
2 Defendant-Intervenors, pursuant to Notice of  
3 Subpoena, in the law offices of Mexican American  
4 Legal Defense Fund, located at 1016 16th Street,  
NW, Washington, D.C., when were present on behalf  
of the respective parties:

5 APPEARANCES:

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25

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6 APPEARANCES: (cont.)

7

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9

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18

19 ALSO PRESENT:

20

21 ALEJANDRA AVILA\*

22 RAI SHAY LIN

23

24 \*Present telephonically

25

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1 P-R-O-C-E-E-D-I-N-G-S

2 11:05 a.m.

3 MS. PERALES: We're on the record.

4 COURT REPORT: Mr. Knowles, can you  
5 please raise your hand?

6 MR. KNOWLES: Mm-hmm.

7 COURT REPORTER: Do you solemnly swear  
8 or affirm that the testimony you're about to give  
9 is the truth, the whole truth and nothing but the  
10 truth?

11 MR. KNOWLES: I do so affirm.

12 COURT REPORTER: Thank you so much.

13 MS. PERALES: Good morning, Mr.  
14 Knowles.

15 MR. KNOWLES: Good morning.

16 MS. PERALES: My name is Nina Perales  
17 and I am an attorney for the Perez Defendant  
18 Interveners in this case.

19 Before we get started, I'd like to  
20 have everybody else here introduce themselves  
21 because we'll probably have several people  
22 questioning you today.

23 So, to my right, if you wanted to  
24 introduce yourself.

25 MR. HOLLANDER: Yes, I'm Jeremy

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1 separate from the field office directorate.

2 Q Okay. Do you have -- are you a member  
3 of a union?

4 A I am.

5 Q What is the name of the union that you  
6 are a member of?

7 A The American Federation of Government  
8 Employees. And within that larger organization,  
9 there is the National Citizenship and Immigration  
10 Services Council of which I'm the president.

11 And, it's also known as Council 119.  
12 Within that council there are 22 local unions  
13 representing USCIS employees. And, I'm the  
14 president of Local 1924 which is the local union  
15 in the National capitol area representing USCIS  
16 employees.

17 Q Would it be okay for me to refer to  
18 Council 119 as NCISC?

19 A Yes.

20 Q And, would it also be okay for me to  
21 refer to it as the USCIS Union?

22 A That would be okay. It's less  
23 cumbersome.

24 Q Yes, and so I might refer to it --  
25 would it also be okay if from time to time,

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1     instead of saying USCIS, that I might just say  
2     CIS?

3             A       Mm-hmm, yes.

4             Q       Okay. How many people are in the  
5     bargaining unit of the NCISC?

6             A       It's approximately 12,500 in what we  
7     call the nonprofessional bargaining unit. And,  
8     there's approximately 100 in what we call the  
9     professional bargaining unit.

10            Professional would be attorneys,  
11   accountants, statisticians, social scientists  
12   that whose job requires a particular specialized  
13   degree.

14            But Council 119 represents only the  
15   nonprofessional unit which is about 12,500.

16            Q       And, does that 12,500 include  
17   employees who are known as Immigration Service  
18   Officers?

19            A       Yes.

20            Q       And, will it be okay if I refer to  
21   Immigration Service Officers as ISOs?

22            A       Yes.

23            Q       All right. Now, you mentioned that  
24   you are also the president of your Local 1924.  
25   Is that right?



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1           A       Yes.

2           Q       So, you hold two presidencies at the  
3 same time?

4           A       That's right.

5           Q       And, how many members in the  
6 bargaining unit of your Local?

7           A       In Local 1924 represents approximately  
8 2,000, the bargaining unit from the  
9 nonprofessionals. We also represent the 100  
10 bargaining unit employees in the professional  
11 unit.

12                   And, they are generally located in the  
13 National capitol area, although we have some who  
14 are posted abroad.

15          Q       All right.

16          A       That would be the CIS Headquarters,  
17 the Asylum Office, the Washington District and  
18 Field Office, the Potomac Service Center, the  
19 Administrative Appeals Unit, the Investor Program  
20 Office and our international officers that have  
21 deployed abroad.

22          Q       With a bargaining unit of  
23 approximately 2,000 people, how large is your  
24 Local compared to some of the other constituent  
25 parts of the CIS union?

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1           A       Right. So, remember, I said there are  
2   22 Local unions around worldwide that represent  
3   CIS employees.

4                   Local 1924 is probably the largest in  
5   terms of bargaining unit size as well as  
6   membership.

7                   Of the 2,000 bargaining unit, about  
8   800 members.

9                   The second largest would be our Local  
10   that's based out in Nebraska and the Upper-Mid-  
11   West that includes the Nebraska Service Center,  
12   the National Benefit Center, the National Records  
13   Center and various field offices there.

14                  They are roughly about the same size,  
15   but slightly smaller.

16          Q       Okay. When did you become president  
17   of Local 1924?

18          A       In 2000, the year 2000.

19          Q       And, have you held the position of  
20   president continuously since 2000?

21          A       Yes, I've been re-elected many times.

22          Q       And, can you briefly summarize your  
23   responsibilities as president of Local 1924?

24          A       So, I provide general oversight to the  
25   affairs of the Local. I'm the Chief Executive of

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1 our Executive Board.

2 I'm, you know, ultimately responsible  
3 for the legal and financial affairs of the Local.  
4 And, I represent the Local in other union  
5 settings with AFGE National, our AFG District,  
6 and of course, our CIS Council, National CIS  
7 Council.

8 Q And, can --

9 A And, we, you know, we bargain and  
10 negotiate contracts, agreements. We handle  
11 grievances, arbitrations, dispute resolutions and  
12 generally represent the bargaining unit in  
13 matters affecting their working conditions and  
14 dealing with the Agency.

15 Q And, when you say the Agency, do you  
16 mean USCIS?

17 A Yes, yes.

18 Q Can you briefly summarize your duties  
19 as the president of the USCIS union?

20 A Yes, as president of the Council, I'm  
21 the Chair of our Executive Board. And, I provide  
22 general oversight to the affairs of the Council.

23 It is a Council of 22 Locals. It's  
24 not really a separate organization, it's really  
25 more of a steering committee. And, we represent

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1 the 22 Locals in matters that affect them  
2 collectively.

3 So, for example, I was the chief  
4 negotiator of the USCIS -- chief negotiator for  
5 the union of the USCIS Labor Contract, also known  
6 as the collective bargaining agreement.

7 I would negotiate national agreements  
8 with the Agency that affect the nationwide  
9 workforce or matters that affected more than one  
10 Local.

11 Sometimes we might engage in  
12 litigation on behalf of the Council,  
13 arbitrations, EEO complaints, appeals to the  
14 Merit Systems Protection Board.

15 And, we provide assistance and  
16 guidance to our Locals. The Locals are  
17 autonomous within our Council. So, I don't  
18 direct, you know, I don't direct the other Local  
19 presidents, but I represent them.

20 And, when they need assistance, we  
21 provide training, guidance. We might help  
22 intervene on behalf of those Locals with the  
23 higher Agency leadership.

24 Q When did you become the USCIS  
25 president?

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1           A       This is -- I've served two different  
2 terms. The first one was from 2007 to 2009.

3                   And, my current term from 2015 to the  
4 present. It's a three-year term.

5           Q       Does that mean you're up for election?

6           A       Yes, our elections are in August.

7           Q       So, this --

8           A       The 11th of August is our election.

9           Q       Okay. Are you in a contested  
10 election?

11          A       Yes.

12          Q       Okay. Now, when you were elected  
13 USCIS president in 2015, was that a contested  
14 election?

15          A       It was.

16          Q       And, what was the name of your  
17 opponent?

18          A       Kenneth Palinkas.

19          Q       Okay.

20          A       He was the incumbent president.

21          Q       Okay.

22          A       At the time.

23          Q       In your role as USCIS president -- in  
24 your role as USCIS union president, do you have  
25 interactions with union members in offices other

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1     than your own?

2             A       Yes, frequently.

3             Q       Can you describe those interactions?

4             A       Yes, I mean, normally, well, for the  
5     Local as the Local president, I'm, you know, I'm  
6     constantly moving among all of the units, meeting  
7     with employees, attending town hall meetings,  
8     meeting with management.

9                     I like to talk with as many employees  
10    as possible so I get a good sense of what their  
11    concerns and interests are. Individuals call me  
12    asking for advice and assistance.

13                    With respect to the other Locals, the  
14    usual point of contact would be with the Local  
15    president or their designee.

16                    Sometimes, I might get a call from a  
17    random employee and office around the country and  
18    I would then direct them, you know, for proper  
19    assistance to their Local president.

20                    We have periodic conference calls,  
21    conferences. I visit other offices and other  
22    Local unions jurisdictions. So, there's quite a  
23    bit of interaction.

24             Q       Have you ever bene to a USCIS Service  
25    Center?

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1           A       I have. In fact, our Local 1924  
2 represents the Potomac Service Center which is in  
3 Crystal City, Arlington, Virginia. I go there  
4 frequently.

5                   And, I've visited all of the other  
6 Service Centers, Vermont, Nebraska, Texas,  
7 California in the course of my work with the  
8 union.

9           Q       And, when you visit Service Centers,  
10 do you have an opportunity to speak to the staff  
11 at those Service Centers?

12           A       Yes. Yes, sometimes we've had  
13 negotiations, meetings. Sometimes, it's a  
14 courtesy visit.

15                   When we signed the current collective  
16 bargaining agreement with the Agency, we actually  
17 did that in conjunction with the visit of the  
18 former director, Leon Rodriguez, to the Nebraska  
19 Service Center.

20                   And, I traveled there with our AFG  
21 National president. We sought and made a big  
22 ceremony signing the CBA with Director Rodriguez.

23                   And then, we actually toured the  
24 entire Service Center and met, you know, went  
25 desk to desk, the Director and I, and the

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1 National Union president went and basically met  
2 every employee in the building.

3 Q All right. Now, are you familiar in  
4 a general sense with the types of applications  
5 that are adjudicated at Service Centers?

6 A I'm not familiar as a worker with  
7 those form types because my job is just  
8 adjudicating asylum claims. But, I have general  
9 familiarity with the kinds of benefits that  
10 various offices adjudicate.

11 Q And, do you know where DACA requests  
12 are adjudicated?

13 A Generally, in Nebraska, the Nebraska  
14 Service Center. And, at some time, they have  
15 been also done at the California Service Center.

16 But, if you're familiar with the  
17 Service Center operations, they tend to shift  
18 work around the country. I think at one time  
19 earlier in the Agency's evolution, they would,  
20 you know, they had different portfolios assigned  
21 to different Centers.

22 But, it's really a mobile work,  
23 depending on volume, backlogs, staffing and so  
24 on.

25 Q Do adjudications at USCIS Service



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1 Centers typically include an interview?

2 A No, they do not.

3 Q Are you aware of DACA --

4 A In fact, I'm sorry, I'm not aware of  
5 any interviews being conducted in Service  
6 Centers. They're really not set up, you know,  
7 there's no interview offices, no -- there's no  
8 what we call public interface between the Service  
9 Centers and the public.

10 Although, sometimes, a Service Center  
11 may send a case to a field office with a request  
12 that the field officer interview the applicant to  
13 obtain further information or evidence.

14 Q Are you aware of any specific  
15 instances where a DACA request was referred to a  
16 field office for interview?

17 A Yes, I'm aware of, you know,  
18 anecdotally. I don't -- because I don't do the  
19 work. But, I have spoken with several of my  
20 colleagues in recent months about that question.

21 I've spoken specifically with our  
22 union reps in the Washington, D.C. Field Office  
23 and the Atlanta, Georgia Field Office. And, they  
24 told me about doing interviews on behalf of the  
25 Service Center in several cases where the Service

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1 Center needed more information. They called in  
2 the DACA applicant.

3 I think in these cases, they were  
4 suspected of gang activity or gang association.  
5 And so, they brought in the applicants and  
6 pursued the lines of questioning requested by the  
7 Service Center. Sent the cases back to the  
8 Service Center with the findings.

9 Q Have you had an opportunity to speak  
10 with members of the USCIS union about how they  
11 adjudicate DACA applications?

12 A Yes, I've spoken with the former  
13 president of the Local that represents employees  
14 at the California Service Center. I say former  
15 because they just had an election. That  
16 individual is now the vice president, same Local.  
17 I've spoken with the president of the  
18 Nebraska Service Center and the vice president of  
19 the Nebraska Service Center.

20 I can't recall whether the California  
21 president has personally adjudicated DACA cases.  
22 I believe he may have.

23 But, the two individuals in Nebraska  
24 both -- they are ISOs who had done DACA.

25 Q And, you spoke to those two?

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1           A       Yes, yes.

2           Q       Okay. And, did you have occasion to  
3 speak with these union members who include DACA  
4 adjudications about whether they rubberstamp  
5 applications?

6           A       Yes.

7           Q       And, can you convey or share with us  
8 what you learned from those conversations?

9           A       Well, I asked them, you know, what  
10 would you say to the criticism that this  
11 adjudication is a rubberstamp operation?

12                   They said no, far from it. We have  
13 very specific training and guidance. Every case  
14 is treated on its own merits. We do thorough  
15 examination of the evidence.

16                   We do the necessary background checks.  
17 We flag any cases that are of concern or  
18 supervisory review.

19                   The individuals kind of bristled at  
20 the thought that they would -- it would be said  
21 that their colleagues rubber-stamped anything.

22           Q       Did you have occasion to talk with any  
23 DACA adjudicator about how much consideration  
24 they gave and how much discretion they exercised  
25 with respect to DACA applications compared to

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1 other applications that they may adjudicate?

2 A Yes, I mean, I asked them, it's really  
3 in the same conversation about so-called rubber-  
4 stamping. I said, it's been said by critics of  
5 the program that you guys don't have any  
6 discretion.

7 And, they were quite surprised and  
8 said, well, yes, we -- by definition, any  
9 adjudication requires some discretion. That's  
10 why we have immigration officers who are trained  
11 in immigration law to apply the law on a case by  
12 case basis and use discretion in their decisions.

13 They're not under orders to  
14 automatically approve or deny a case. They're  
15 looking at case by case.

16 Does the applicant -- I would say this  
17 of any adjudication, does the applicant meet the  
18 stated criteria or not? And, even if they do  
19 meet the stated criteria, are there any  
20 discretionary reasons to deny them or any  
21 mandatory reasons such as criminal record or  
22 possible terrorist, national security threat, et  
23 cetera, et cetera.

24 So, they -- one individual said, of  
25 all the form types that he had adjudicated at the

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1 Nebraska Service Center, DACA, he felt, was the  
2 most -- the one that required the most  
3 discretion.

4 And, he said, particularly, because  
5 the requirements were quite stringent to show the  
6 physical presence, to show the continuous  
7 physical presence and also to make sure that  
8 there was no criminal record.

9 And, also, that there was no fraud  
10 involved.

11 Q Did you have occasion to speak with  
12 DACA adjudicators or other union members about  
13 the use of discretion and the criteria related to  
14 education? The DACA criteria that the individual  
15 either be in school or have completed high  
16 school?

17 A I didn't ask specifically, you know,  
18 do you discretion with that? I asked just in  
19 general, do you use discretion to making your  
20 decision.

21 Now, they did, in the course of  
22 describing their work, they were describing their  
23 work because I asked them to describe their work,  
24 because I don't know their work other than what I  
25 read in the newspapers about the program.

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1                   So, what are you looking for in terms  
2   of qualification? They're looking at, of course,  
3   continuous presence, time of entry, the age,  
4   education, military service and criminal records.

5                   The only thing I remember them telling  
6   me about specifically about the education was  
7   that they were particularly attentive to looking  
8   at potential fraud.

9                   And, they referred to with some pride  
10   of ownership that their unit had successfully  
11   worked with our fraud detection and national  
12   security folks and ICE to uncover and pursue  
13   prosecution because ICE pursued the prosecution  
14   of so-called diploma mills.

15                  And so, they were particularly  
16   vigilant about possible document fraud.

17                Q       And, in order for a DACA adjudicator  
18   to figure out whether an applicant was presenting  
19   information that might be related to a diploma  
20   mill, did they describe that they were using  
21   discretion in that consideration?

22                A       I didn't ask those kind of questions.  
23   I don't have any personal knowledge of how they  
24   pursued their adjudications.

25                Q       Okay.

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1           A       They just, you know, reiterated that  
2       they do it with due diligence and coordination,  
3       they don't do it in a vacuum. They work, as I  
4       said, closely with the Fraud Detection and  
5       National Security folks.

6                       When there are indicators of problems,  
7       they're instructed to flag them, bring them to  
8       their supervisors and pursue whatever avenues are  
9       necessary.

10           Q       Is it fair to say that DACA requests  
11       are adjudicated by Immigration Service Officers?

12           A       Yes.

13           Q       And, are you familiar with the  
14       training generally that is offered Immigration  
15       Services Officers?

16           A       Yes, well, there is the BASIC  
17       Immigration Service Officer Training, also known  
18       as BASIC, all caps.

19                       It is a -- it was historically, I  
20       think a four-week course. It's now been extended  
21       this year. I can't recall to five or six weeks,  
22       which every Immigration Services Officer must  
23       take. And, so a requirement of their employment,  
24       must take it and pass.

25                       And, that's conducted at our Service

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1 Academy in Charleston, South Carolina. But,  
2 sometimes, like in the case of our Service Center  
3 here in Arlington, Virginia, that was a fairly  
4 new Service Center. They had to hire a lot of  
5 employees at one time.

6 They actually brought the training  
7 staff up and trained them on the site.

8 Similarly, asylum officers and refugee  
9 officers also go to BASIC training. Anyone who  
10 adjudicates an application has to go the BASIC  
11 training course.

12 And then, there's additional training,  
13 depending on the job. So, for asylum, we have a  
14 whole asylum training academy. Same thing for  
15 the refugee officers.

16 In the Field Offices, they may get  
17 additional specialized training in interviewing.  
18 And, in the Service Centers, and all offices,  
19 there are on site trainers who provide continuous  
20 training that's specific to the form types, the  
21 use of the databases.

22 There's lots of ongoing required  
23 training about privacy, computer security,  
24 integrity, EEO, safety and health. So, there's  
25 constant training going on.



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1           Q       From time to time, do you, as the  
2   union president, advocate to management regarding  
3   workload or work conditions of your union  
4   members?

5           A       Well, that's one of the main things  
6   that we do. There are things which we sometimes  
7   negotiate in a formal agreement. And, there are  
8   other areas of advocacy that are what we would  
9   call in the nonnegotiable category.

10                   Because, according to the Labor Law,  
11   there are things that are exclusive management  
12   rights such as assignment of work, the methods  
13   and means of production, the technology that's  
14   used. You can't negotiate over, you know, what  
15   system they're going to use, but we negotiate  
16   over how it's applied, the effect there is on the  
17   workforce.

18                   We recently negotiated over the  
19   implementation of new performance measures. That  
20   was partly due to standardization from DHS and  
21   OPM, but also we were looking for more standard  
22   performance measures within the Agency.

23                   Now, during those negotiations, of  
24   course, it was made very clear by the Agency that  
25   things like metrics that are used to evaluate

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1 productivity was in the area of management's  
2 exclusive rights. And, our views were welcomed,  
3 but it was a nonnegotiable issue.

4 Now, for our constituents, I would say  
5 across the Agency, whether it's Field Offices,  
6 Service Centers, Asylum Offices, are very, very  
7 concerned about their caseload.

8 And, I would say that's probably one  
9 of the universal themes among my members is they  
10 feel that they've got too much work to do in too  
11 little time. And, they are working under  
12 extremely stringent quality control standards.

13 And so, there's a lot of pressure.  
14 There's a lot stress. There's a lot of people  
15 saying they're working through their lunch or  
16 they sometimes come in early or stay late, which  
17 they're not supposed to be according to the Fair  
18 Labor Standards Act, you're not supposed to be  
19 working for free.

20 But, a lot of people work, as we say,  
21 off the clock because they feel they have to meet  
22 the production standards.

23 So, we, even though those -- it's not  
24 a negotiable area, I'm constantly talking to the  
25 senior leadership says, you know, it's your right

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1 to assign the work, but make sure it's a  
2 reasonable caseload. Make sure that you're on  
3 top of your staffing. Make sure that people have  
4 the right training, the right equipment and that  
5 the supervision that they get should be of a  
6 coaching and a mentoring kind of leadership, not  
7 just counting widgets.

8 So, it's an area of constant, well, I  
9 would say creative tension between quality and  
10 quantity.

11 But, having said that, we are held to  
12 very high quality standards. And, my own office,  
13 we have a 100 percent review, supervisory review.  
14 If I don't get it right, they send the case back  
15 and have me do it over again.

16 Q Has any DACA adjudicator that you've  
17 spoken to or any union member in a Service Center  
18 told you that DACA applications are rubber-  
19 stamped because of high workload?

20 A Not specifically. I mean, they did  
21 not describe it to me as, hey, you know, DACA is  
22 the worst of all as far as assembly line.

23 That the pressure to produce, I would  
24 say, is equally felt among form types in Service  
25 Centers, in Field Offices, in Asylum Offices.

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1                   We, you know, we're adjudicating  
2   benefits that involve people on an industrial  
3   scale. And, there's always those that had a  
4   tension.

5                   So, I did, however, have our union  
6   reps from Nebraska say that they were often told  
7   to make sure that they got the decisions right  
8   and that they should take the time that they  
9   needed to do the case correctly.

10                  That doesn't mean that the pressure's  
11   off to produce, but they were specifically told  
12   not to sacrifice quality in order to make their  
13   production.

14                Q     And, were any -- did anybody  
15   communicate to you that that was the case  
16   specifically with DACA that they ought to take  
17   the time --

18                A     Yes.

19                Q     -- to do it right?

20                A     Yes, yes.

21                Q     And, can you share that with us?

22                A     Well, I thought I just did, like the  
23   individual said. I, you know, said are you  
24   pressured to keep the line moving? He said,  
25   well, yes, we're always pressured to keep the

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1 line moving, the production line.

2 But, we're also told to take the time  
3 that's needed to, you know, look at all aliases,  
4 because many applicants have, you know, at  
5 various times, different encounters with the  
6 Agency or other immigration agencies have used  
7 different names that, of course, we know with  
8 various cultures and linguistic groups, you've  
9 got different name orders, family name, given  
10 name, matrilineal, patrilineal.

11 And, we have to -- well, all of us are  
12 trained regardless of form type that you have to  
13 meticulously run in our background checks all  
14 possible aliases.

15 And, my performance is, we use the  
16 term dinged. We get dinged on our performance  
17 quality if we fail to check all aliases. It  
18 comes back to the employee.

19 And so, the individual said, they're  
20 told, you know, make the decision, but make sure  
21 you get it right and that you do check all the  
22 databases, you do check and follow up on all  
23 possible hits and leads of criminal activity.

24 MS. PERALES: I'm going to hand you  
25 what has been marked Deposition Exhibit Number 2.

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1                   And, I will represent to you that this  
2   is a signed declaration from Mr. Kenneth Palinkas  
3   from April 6, 2018.

4                   And, you can find that information on  
5   the very last page with the date and signature.

6                   First, can you tell me who is the  
7   president of the USCIS union on April 6th, 2018?

8                                 (Whereupon, the above-  
9                                 referred to document was  
10                                marked as Deposition Exhibit  
11                                No. 2 for identification.)

12                   MR. KNOWLES: That would be me. If  
13   you're referring to the National CIS Council 119,  
14   that would be me.

15                   Mr. Palinkas is the former president  
16   of the Council, as I said earlier. And, he's  
17   currently the president of Local 0235 in the New  
18   York area, New York City area.

19                   MS. PERALES: I'd like you to turn  
20   with me, if you would, to the first page of the  
21   declaration. And, I'd like you to look at  
22   towards the bottom of the page, there is a  
23   paragraph that starts with the word "however."

24                   MR. KNOWLES: Mm-hmm.

25                   BY MS. PERALES:

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1           Q       And the second sentence, and tell me  
2   if I read this correctly, quote, management has  
3   continually transformed USCIS from a service that  
4   serves to protect our national security and the  
5   rule of law into one that, instead, serves to  
6   protect undocumented immigrants and their  
7   lawyers, unquote.

8                   Did I read that correctly?

9           A       Yes, that's how I read it.

10          Q       Okay. Do you agree with that  
11   statement?

12          A       I don't.

13          Q       Okay.

14          A       I do not, just to make sure you note  
15   that.

16          Q       Did Mr. Palinkas consult with you  
17   before making this statement in this declaration?

18          A       No.

19          Q       Looking at the next sentence in that  
20   same paragraph, quote, this is what facilitated  
21   the changes in our titles from Adjudications  
22   Officers to Immigration Services Officers.  
23   Aliens seeking benefits have been referred to as  
24   customers further eroding the standards as  
25   contained in the INA, unquote.

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1 Did I read that correctly?

2 A Mm-hmm.

3 Q Do you agree with that statement?

4 A No.

5 Q Do you believe that the change in  
6 title from Adjudication Officer to Immigration  
7 Service Officer has undermined the mission of the  
8 Agency?

9 A No.

10 Q Do you believe that referring to non-  
11 citizens who seek immigration benefits as  
12 customers erodes the standards contained or  
13 erodes the standards of your Agency?

14 A No.

15 Q Did Mr. Palinkas consult with you  
16 before making that statement in his declaration?

17 A No.

18 Q Looking to the top of the next page,  
19 if you would, with me. I'm going to read to you  
20 the first sentence of that paragraph. You tell  
21 me if I've read it correctly.

22 Quote, the so-called Deferred Action  
23 for Childhood Arrivals, parentheses, DACA, close  
24 parentheses, program has further compromised and  
25 eroded the goals that USCIS Officers pursue every



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1 day to protect our borders by ensuring that  
2 immigration benefits are granted for those who  
3 meet the criteria, unquote.

4 Did I read that correctly?

5 A Mm-hmm.

6 Q Do -- is it your opinion that DACA has  
7 further compromised and eroded the goals that  
8 USCIS Officers pursue every day?

9 A No, I don't agree with that.

10 Q Did Mr. Palinkas confer with you  
11 before making this statement in his declaration?

12 A No. If could just make a comment,  
13 you've asked me several times if he's conferred  
14 with me, I'm not sure whom he has conferred with.  
15 I'm, you know, maybe his colleagues, but  
16 certainly not with me as a fellow Local  
17 president.

18 Q And, would it be fair to say that he  
19 also did not confer with you as the president of  
20 the USCIS union?

21 A No, he did not, either -- when I --  
22 since I've been president, he has not conferred  
23 with me on things like that. And, when he was  
24 president of the National Council, I don't recall  
25 him conferring with me or other Local presidents

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1 about such matters.

2 Q Further down in the paragraph, there's  
3 a sentence that begins with the word "and." I'll  
4 read that to you.

5 Quote, and, USCIS management has  
6 ensured that these applications are not properly  
7 screened as has it over assigned the workload for  
8 the completion of these applications to be  
9 favorably rubber-stamped as long as they meet  
10 minimal requirements, unquote.

11 Did I read that correctly?

12 A Mm-hmm.

13 Q Based on your conversations with  
14 members of the union and with DACA adjudicators  
15 about their workload, do you agree with that  
16 sentence?

17 A I do not agree with that sentence.

18 Q Okay. The first sentence in the next  
19 paragraph starting with the word "since." I'll  
20 read it to you and you let me know if that's what  
21 it says.

22 Quote, since June 2012, USCIS has  
23 continually bypassed Congress and existing  
24 immigration law as contained in the Immigration  
25 and Nationality Act with the enactment of the

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1      DACA program, unquote.

2                      Did I read that correctly?

3              A              Yes.

4              Q              Do you agree with that statement?

5              A              I do not.

6              Q              Okay. With respect to the final  
7 sentence in the paragraph, quote, in the interim,  
8 taking a backseat to this avalanche of benefits -  
9 -

10             A              I'm sorry, I'm not sure where we are.

11             Q              We're still in the paragraph that  
12 begins with the word "since."

13             A              Right.

14             Q              It's the very last sentence.

15             A              Uh-huh, oh, I see, in the interim,  
16 okay.

17             Q              Yes, quote, in the interim, taking a  
18 backseat to this avalanche of benefits bestowed  
19 on illegal aliens are the jobs, wages, benefits  
20 and security that rightfully belong to Americans  
21 and their families as well as those individuals  
22 who applied for immigration benefits in  
23 accordance with existing law and procedure,  
24 unquote.

25                              Do you see that there?

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1           A       I do, although I'd like to read it  
2   again because I'm not quite sure I follow. So,  
3   it's not your reading, but I'm trying to  
4   understand the sentence.

5           Q       It might help to read the preceding  
6   sentence as well.

7           A       Okay.

8           Q       Do you agree with the -- that sentence  
9   that I read to you?

10          A       I do not.

11          Q       Is it the case that, from time to  
12   time, an non-citizen seeks an immigration benefit  
13   when that person holds no immigration status in  
14   the United States?

15          A       Could you repeat that?

16          Q       Yes, I'll try to say it a little more  
17   simply.

18          A       Yes.

19          Q       This sentence refers to illegal  
20   aliens, do you see that?

21          A       Yes.

22          Q       Is it the case that, sometimes, an  
23   individual who is not lawfully present in the  
24   United States would seek an immigration benefit?  
25   For example, like asylum?

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1           A       Yes.

2           Q       Is it the case that, sometimes, people  
3       who are undocumented, let's say, for lack of a  
4       better work, in the United States would seek  
5       another kind of immigration benefit?

6           A       Yes, but I'm -- I guess I'm not  
7       understanding the -- I'm not understanding the  
8       question.

9           Q       Well, it's --

10          A       So, people apply for asylum, but, by  
11       definition, one could conceivably be here  
12       unlawfully and still qualify for asylum. And,  
13       the granting of asylum is a discretionary  
14       decision.

15                    Though there are many programs for  
16       which they're not eligible and they're  
17       ineligibility would be material to whether  
18       they're lawfully here or not. It really depends  
19       on the benefit they have sought.

20                    So, it's also known that an asylum  
21       seeker, if their application is pending beyond a  
22       certain amount of time, can qualify to get  
23       temporary work permit.

24                    Through no fault of their own, their  
25       case was not heard within the specified time

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1 frame.

2 But, I'm a little confused by the  
3 sentence that you asked me to read because I'm  
4 not sure what the writer or the speaker is saying  
5 about an avalanche of benefits bestowed on  
6 illegal immigrants.

7 I mean, people may apply for various  
8 programs, and they're only granted a benefit if  
9 they qualify for the benefit. I'm not aware of  
10 people having benefits bestowed on them for which  
11 they don't qualify.

12 Q Okay. And, is it true that sometimes  
13 people who are outside the United States apply  
14 for a visa from USCIS before entering?

15 A Yes.

16 Q And, is it also true that sometimes  
17 people are present in the United States without  
18 immigration status and they might also apply for  
19 --

20 A Yes.

21 Q -- a benefit?

22 Okay, going down to the bottom of the  
23 page, if you would count with me three paragraphs  
24 up. So, there is a paragraph that starts "that  
25 is why a moratorium." Do you see that there?

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1           A           Mm-hmm.

2           Q           I'm going to read you that sentence.  
3   Quote, that is why a moratorium on the existing  
4   DACA program must be put into effect until a  
5   system is established that will ensure proper  
6   procedure and vetting for all.

7                       Next sentence, we should stop  
8   processing any and all pending DACA applications  
9   immediately, unquote.

10                      Do you see that?

11           A           I do.

12           Q           Do you agree with that sentence?

13           A           I don't and I, if I may, I'd like to  
14   explain why I don't agree with it. It's because,  
15   to the best of my knowledge, which is admittedly  
16   not firsthand because I don't process DACA, but  
17   from what I've read in public news sources, the  
18   Agency's own websites and talking to my members  
19   who do this work, I have no reason to doubt that  
20   we have proper procedures and vetting for all.

21                      I'm confident that like all other CIS  
22   programs, we have proper procedures and vetting.

23                      I'm also confident, based on my  
24   experience, the USCIS, like other immigration  
25   agencies, are constantly reviewing and correcting

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1 course when necessary, revising, updating  
2 technology when a threat is perceived, addressing  
3 it properly when fraud is detected, taking  
4 appropriate action.

5 When there are unscrupulous advocates,  
6 there are various measures that are taken.

7 So, it's not that procedures are  
8 static, they're always dynamic. And, I think one  
9 of the things that I know our workers are proud  
10 of is that they participate, our workers, our  
11 members, participate in constantly improving the  
12 organization by bringing problems to the  
13 attention of management.

14 And, we have a management that  
15 actually seeks, you know, valid, current  
16 information from the folks doing the work.

17 So, it's not that we're not in need of  
18 improvement, we're always in need of improvement,  
19 but to call for the shutting down of a program  
20 for lack of proper procedure and vetting, I don't  
21 believe that -- I'm not aware of any evidence  
22 that we don't have proper procedure and vetting.

23 Whether one agrees with the program or  
24 not as a policy is another matter. And, I'm not  
25 really a partisan on the public policy. I'm



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1 speaking to the work that I know my members do  
2 and have told me they do.

3 Q Do you think that adjudication like  
4 DACA could be outsourced to individuals outside  
5 the Agency? What is your view of that?

6 A I don't -- I'm not sure what you mean  
7 by outsourced.

8 Q Hire private contractors to simply  
9 look at DACA applications?

10 A Well, the union would vigorously  
11 oppose, as it does almost all contracting out,  
12 but certainly of what we call inherently  
13 governmental functions.

14 I can give you a historic example.  
15 Several years ago, the Agency, this was maybe  
16 over ten years ago, the Agency attempted to do  
17 what they call an A76 study of where contractors  
18 were invited to compete for a contracting out of  
19 what was then called Customer Contact  
20 Representatives or the folks that work the front  
21 window in a Field Office answering questions and  
22 resolving cases.

23 And, the union successfully, with the  
24 support of Congress, stopped and actually had  
25 Congress defund that study because we argued

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1 these are inherently governmental functions, even  
2 the contact rep at the front window requires very  
3 specialized training, high accountability and  
4 they do, sometimes, some level of adjudications.

5 Those individuals have now been  
6 retitled to be Immigration Services Officers  
7 Level I. Those folks exercise a high degree of,  
8 you know, required proficiency and  
9 accountability.

10 I would never support the contracting  
11 out of adjudication of any benefit. That's  
12 definitely, you know, according to the  
13 Immigration and Naturalization Nationality Act,  
14 sorry, those functions are to be performed by  
15 Immigration Officers.

16 MS. PERALES: I'd like to take a short  
17 break before passing the witness. It's been  
18 about an hour. So, if we could go off the  
19 record.

20 (Whereupon, the above-entitled matter  
21 went off the record at 12:07 p.m. and resumed at  
22 12:28 p.m.)

23 MS. PERALES: Okay, we're back on the  
24 record.

25 I pass the witness. And, I think I'm

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1     sometime.

2             A        Okay.

3             Q        So, let's just try not to talk over  
4     each other and try give me verbal answers.

5             A        All right.

6             Q        So, after you received Mr. Palinkas's  
7     declaration, what did you do next?

8             A        Well, I thought about it and I called  
9     folks that I knew. For example, I called my  
10    colleagues in the Washington District Office.

11                    These are all the people that I spoke  
12    to are union representatives. And, my -- I don't  
13    have the capacity to like send out a broadcast  
14    message, a survey, you know, assemble all the  
15    people that work there.

16                    And, I would not normally do that  
17    unless the employees were making it an issue they  
18    wanted me to take on.

19                    So, just to -- for me to assess and be  
20    able to answer the question, what do you think  
21    about this statement, I wanted to find out from  
22    folks who have more familiarity with the subject  
23    what they do.

24                    So, I called my colleagues, as I said,  
25    one in Washington District. The individual is

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1 one of my Local vice presidents and what we call  
2 an ISO Level III.

3 So, their Senior Immigration Services  
4 Officer said, hey, what do you think about this  
5 statement? And, do you, as an Immigration  
6 Services Officer, in a Field Office, ever  
7 interview DACA applicants?

8 Because, one of the statements that  
9 Mr. Palinkas made was, no DACA applicant is every  
10 interviewed. I didn't know the answer to that so  
11 I asked my colleague.

12 She says, well, not normally, but  
13 sometimes we do. And, I said like, for instance  
14 what? And, she said, well, I personally received  
15 two different applications files from the Service  
16 Center asking me to call in the individuals and  
17 interview them about potential gang activity.

18 And, I said do you get involved in  
19 adjudicating the case? No, I was -- my mission  
20 was to interview them about these things and send  
21 my findings back to the Service Center. I have  
22 no idea, she said, what they did there.

23 Called my colleague in Atlanta --

24 Q Stop really quick, let's -- before we  
25 go to Atlanta, let's finish up, it's D.C.,

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1 correct?

2 A Yes.

3 Q Okay.

4 A Yes.

5 Q Not Washington State?

6 A No, no, it's call the Washington Field  
7 Office which is actually located in Fairfax,  
8 Virginia.

9 Q Okay. How many DACA interviews did  
10 that person tell you they had personally  
11 conducted?

12 A Two.

13 Q Okay. And, did she -- you said it was  
14 a she, I believe?

15 A Mm-hmm.

16 Q Did she indicate to you the substance  
17 of those DACA interviews?

18 A Only what I just said, that they -- it  
19 had to do with -- to try to determine whether  
20 they had any gang connections.

21 Q Okay.

22 A But, I didn't ask anything further  
23 than that.

24 Q Before you had that conversation, were  
25 you aware of a single instance where a DACA

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1 application had been actually withdrawn? Before  
2 that phone conversation, were you aware of a  
3 single interview of a DACA -- a potential DACA  
4 recipient occurring anywhere in the United  
5 States?

6 A No, I, as I said to you a moment ago,  
7 because I'm not familiar with the program, I was  
8 reading Mr. Palinkas's statement where he said no  
9 DACA applicants are ever interviewed. Okay?

10 So, I know that Service Centers don't  
11 do interviews. But, I called a colleague that I  
12 know a confidant, they're a reliable source, do  
13 you know if DACA applicants are ever interviewed  
14 in a Field Office?

15 Because that's the only place that we  
16 do interviews is in a Field Office or, in my  
17 case, in an Asylum Officer. Or in the case of  
18 refugees officers abroad or --

19 She says, well, occasionally, yes.

20 Q So, besides the two interviews she  
21 personally did, did she tell you that other  
22 interviews had occurred?

23 A I just asked what was her own  
24 experience and that's what she said. And, I  
25 didn't like exhaustively, you know, interrogate

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1 her to uncover, you know, other data or whatever.

2 Q So, as you sit here today, you're  
3 aware of only two instances at the Washington  
4 District Office where DACA applicants were  
5 interviewed?

6 A Right. Whether there were more, I  
7 have no idea.

8 Q Okay.

9 A Because I didn't go and like do a data  
10 call or, you know, call the district director. I  
11 didn't really feel that was my role. I really  
12 was trying to assess from my members and my  
13 fellow union representatives, what was their own  
14 knowledge of the matter?

15 Q Could you have done a data call?

16 A I suppose I could have as a union rep.  
17 But, my -- I'm not involved in the case. I was  
18 just called and asked from information and  
19 comment.

20 If we were involved in any kind of a  
21 case as a moving party or whatever, we might do a  
22 data call. And, in our parlance, it's called a  
23 request for information.

24 But, normally, the union's request,  
25 you know, our right to request and the Agency's

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1 response of what responsibility to provide me  
2 with information would be usually with respect to  
3 a labor issue.

4 So, for example, if I was defending  
5 somebody in an adverse action, I might ask for  
6 data information pertaining to their personnel  
7 file.

8 Or, if it affected, say, the overtime  
9 practices of the Agency and we were litigating  
10 over, you know, improper payment of overtime, I  
11 might be asking for records pertaining to that.

12 But, wouldn't really have a reason to  
13 ask the Agency for like statistics about DACA.  
14 Because, I'm not involved in the case.

15 If my members, however, had brought to  
16 me an issue about DACA that affected their  
17 working conditions, for example, if they felt  
18 like they were, you know, being overwhelmed with  
19 the caseload or there was massive fraud or  
20 rubber-stamping or whatever.

21 And, I wanted to bring that issue  
22 forward to the Agency, yes, I might be asking for  
23 information.

24 But, none of my members have ever  
25 brought that to me as a concern.



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1 Local.

2 Q All right, so, we have that call you  
3 made.

4 Then, let's talk about the next call  
5 you made. Who'd you call?

6 A I called -- well, no, mind you, I  
7 don't know if sequentially, I don't have the  
8 dates and the sequence of who I called when.

9 Q All right, let's -- I won't hold you  
10 to that --

11 A But, I did call my colleague at the  
12 Atlanta District --

13 Q Mm-hmm.

14 A -- who is the current Local president  
15 of that Local union.

16 Q Okay.

17 A And, she is also an ISO Level III  
18 Senior Adjudicator.

19 Q And, what did you ask her?

20 A Same thing. Here's this statement,  
21 what do you think? Is it, you know, are you  
22 aware of any occasions when DACA applicants are  
23 every interviewed?

24 She goes, yes, I sometimes get cases.  
25 I can't remember the specifics. I think it might

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1 have been similar kind of thing, possible gang  
2 activity.

3 But, the reason that she got these  
4 files was the Service Center needed, in order to  
5 complete their adjudication, a face to face  
6 interview to verify tests or look at documents.

7 I didn't ask extensively, you know,  
8 who, what, where, how and when occurred during  
9 the interview.

10 But, she said, it's -- both  
11 individuals said, it's highly unusual for people  
12 to be interviewed. But, when necessary, they  
13 are.

14 Q Did she tell you how many interviews  
15 she had personally done?

16 A I believe she said two.

17 Q Are you aware besides those two of a  
18 single DACA applicant being interviewed at the  
19 Atlanta Field Office?

20 A I have no, I mean, again, my only  
21 source of knowledge about it was these phone  
22 calls.

23 Q So, that's a no?

24 A I have -- yes, no.

25 Q Okay. And, what other phone calls did

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1           A           I have no way to know that.

2           Q           Let's go to Nebraska now. What were  
3   the job descriptions of the individuals in  
4   Nebraska that you called?

5           A           They were both ISO IIs.

6           Q           What was their role with the union?

7           A           The one is the current president and  
8   the other is the current vice president at the  
9   Nebraska Service Center.

10          Q           What did you ask these individuals?

11          A           I sent them the statement. I asked  
12   did they have any comments about it? They were  
13   both somewhat surprised that most of it appeared  
14   to be opinion rather than, you know, certainly  
15   Mr. Palinkas, as an ISO II in a Field Office,  
16   does not have personal knowledge of this.

17                    They found a number of statements that  
18   they thought were not factual.

19                    And, I basically said, so, tell me  
20   what you guys do. How do you do it? I asked  
21   them about discretion. I asked them about  
22   rubber-stamping.

23                    I think I -- I mean, I could repeat  
24   myself --

25          Q           Okay.

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1           A       -- but, I said it earlier in the  
2     record.

3           Q       Sure.

4           A       But, they both said, no, we don't  
5     rubberstamp, we're extensively trained. We are  
6     to flag any problems, either a hit from the  
7     database, criminal record, misdemeanor, whatever.

8                   They both talked about the involvement  
9     of their unit in uncovering some so-called  
10    diploma mills with collaboration of FDMS fraud  
11    detection national security Unit of CIS and ICE,  
12    that resulted in prosecutions.

13          Q       Sure.

14          A       They both bristled at the idea that  
15    they rubber-stamped. They both said that they  
16    were held to very high quality standards.

17                   And, that, you know, that the question  
18    of, you know, what does one need to do to be  
19    approved? Well, one needs to meet the criteria.  
20    If they don't meet the criteria, they don't get  
21    approved.

22                   If they meet the criteria, they might  
23    get approved provided they don't have bars to  
24    seeking the benefit like a criminal record.

25          Q       Did those individuals tell you they

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1 had personally interviewed DACA applicants?

2 A No, because they don't interview DACA  
3 applicants in a Service Center.

4 Q All right. Did they tell you that  
5 they had sent any DACA applicants to be  
6 interviewed at Field Offices?

7 A They -- I do not recall that they  
8 personally said that they had sent cases, but I  
9 do believe they affirmed that, on occasion, cases  
10 are sent out to the Field Offices for further  
11 inquiry.

12 Q So, in their call to you, they did not  
13 mention that they had personally sent any DACA  
14 applicant to be interviewed at a Field Office,  
15 right?

16 A No, and I didn't really ask them. My  
17 job wasn't deposing them, it was like --

18 Q Sure.

19 A -- pretty quick conversations.

20 Q And so, your only information about  
21 what happens at the Field Offices with DACA  
22 applicants from the Nebraska Service Center comes  
23 from your conversation with these individuals,  
24 correct?

25 A Could you repeat that?

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1           Q       Let me stop you there. We'll get back  
2 to the question.

3           A       All right.

4           Q       So, the question is, your knowledge  
5 about what happens with DACA applicants at the  
6 Nebraska Service Center --

7           A       Right.

8           Q       -- is based solely upon your  
9 conversation --

10          A       Largely in part, my conversations,  
11 because I do have other knowledge based on  
12 reading the generally available information  
13 about DACA.

14                   I can't say that I only have knowledge  
15 based on my conversations.

16          Q       And, the generally available  
17 information you've read, none of that said that  
18 Service Centers send DACA applicants to be  
19 interviewed at Field Service Centers?

20          A       I don't recall reading that.

21          Q       Did you call anyone at the Texas  
22 Service Center location?

23          A       I did, and I was told they don't do  
24 DACA.

25          Q       They don't do DACA at all?

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1           A       Right. I was told by the Local  
2   president there.

3           Q       What's that person's name?

4           A       Kevin Tinker.

5           Q       Tinker?

6           A       Tinker, T-I-N --

7           Q       Tinker?

8           A       -- K-E-R.

9           Q       Had that Service Center ever done  
10   DACA?

11          A       I'm not sure I asked that question.

12          Q       So, do you know if they have ever --

13          A       I do not know that.

14          Q       Okay.

15          A       But, as I said earlier, although  
16   historically, some Centers will do particular  
17   caseloads increasingly work is shifted. But, I  
18   do not believe it is correct in Mr. Palinkas's  
19   statement that DACA is done at all Service  
20   Centers.

21                   To the best of my limited query, they  
22   were done in California and Nebraska.

23          Q       So, they're not done in Washington,  
24   D.C.?

25          A       No.

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1 Q They're not done in Atlanta?

2 A No. No, there's no Service Center in  
3 Atlanta. There's a Service Center in Arlington,  
4 Virginia, one in Vermont, one in Nebraska, one in  
5 Texas, one in California. And, to the best of my  
6 knowledge, they are done primarily in Nebraska,  
7 but some at some point have been done in  
8 California.

9 Q Are you aware of any Field Office in  
10 Texas that has interviewed a DACA recipient?

11 A No, I didn't ask.

12 Q How many Filed Offices are you aware  
13 of throughout the entire country that have  
14 interviewed DACA recipients?

15 A Well, I'm only aware of two because  
16 those were the calls that I made. I have not  
17 called each and every Field Office to ask.

18 Q So, it's fair to say, as you sit here  
19 today, you're aware of four instances where DACA  
20 recipients were interviewed at a Field Center?

21 A Mm-hmm.

22 Q That's a yes?

23 A That is yes, that is yes.

24 Q Sorry.

25 A Sorry, I keep giving you a nonverbal



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1     nod.   That is yes.

2             Q       Very good.

3                     Sorry, and I do the exact same thing,  
4     I apologize.

5             A       And, I have to reiterate, I did not do  
6     a comprehensive data call.   I mean, this  
7     information should be readily available to the  
8     parties from the Agency.

9             Q       Let's talk about your personal  
10    background.   You're an Asylum Officer?

11            A       I am an Asylum Officer.

12            Q       Have you ever personally processed a  
13    DACA application?

14            A       Have what?

15            Q       Have you ever personally processed a  
16    DACA application?

17            A       No, I have no reason to.

18            Q       Have you ever adjudicated a DACA  
19    application?

20            A       No, I would have no reason to.

21            Q       Okay.   Do you know what the criteria  
22    are to qualify for DACA?

23            A       Vaguely.   I mean, based on what I've  
24    read in the public information.

25            Q       You mentioned earlier something about

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1 and my colleagues told me about the kinds of  
2 cases that would be denied, but I didn't ask  
3 about specific cases.

4 Q Sure. So you know that applications  
5 have been denied based on statistics that are  
6 posted on USCIS's website?

7 A Right. And by the testimony of my  
8 colleagues that they have denied cases or  
9 colleagues have denied cases and for what reasons  
10 they have denied cases.

11 Q So your colleagues have told you they  
12 denied cases?

13 A Yes.

14 Q Okay. Did they tell you why they  
15 denied those cases?

16 A Yes, because they didn't meet the  
17 criteria or because there was some, you know,  
18 discretionary reason.

19 Q What discretionary reason?

20 A That maybe the evidence was in  
21 question or there was fraud or if there was  
22 evidence of criminal activity.

23 Q Okay. Besides the evidence being in  
24 question, evidence of fraud or lack of, I think  
25 you said a lack of --

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1           A           It didn't meet the criteria, right.

2           Q           Are you aware of any discretionary  
3 denial of the DACA application?

4           A           I wouldn't have that kind of knowledge  
5 not having worked there, but, you know, the use  
6 of the word "discretion" I think sometimes is  
7 misused.

8                       So it implies -- Based in my line of  
9 business, which is highly discretionary, it's not  
10 like a flip of a coin or I don't feel like it,  
11 right, you know, it is my authority to make or  
12 not make a decision but it has to be based on  
13 evidence based on proper application of the law,  
14 such as how I feel about it.

15                      Oh, yes, they meet the criteria but  
16 I'm just not going to approve it. That would be  
17 an abuse of discretion. So we often in my trade  
18 as an asylum officer we are trained in the proper  
19 use of discretion and in the, you know, the  
20 favorable exercise of discretion when the  
21 evidence merits that.

22           Q           Did you send Mr. Palinkas's  
23 declaration to anyone else besides the  
24 individuals you just named?

25           A           No.

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1 Q Did you call Mr. Palinkas to ask him  
2 about his declaration?

3 A No.

4 Q How many locals make up the National  
5 Union?

6 A Twenty-two.

7 Q How many of those locals did you call  
8 the presidents of to ask about the adjudication  
9 of DACA?

10 A So it would have been my own local,  
11 the Washington District, the Atlanta District,  
12 the Texas Service Center. Mr. Tinker, by the  
13 way, is also in National Council.

14 The local President in Texas is also  
15 the Executive Vice President of the National  
16 Council. He has seen and commented to me on Mr.  
17 Palinkas's declaration. I called California  
18 Service Center and the Nebraska Service Center.

19 Q Did you call the local where Mr.  
20 Palinkas is a member?

21 A No.

22 Q All right. So that was kind of like  
23 the bucket of things you did after talking to New  
24 Jersey and getting Mr. Palinkas's deposition.

25 Is there anything else during that

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1           A       I have no -- Since I am not a party to  
2   the case I don't, you know, I was not involved in  
3   the discussions with the court.

4           Q       Would you have testified in this  
5   deposition if you didn't believe the court had  
6   ordered you to?

7           A       You know, I am not a lawyer and I am  
8   not familiar with legal process. I wish to be  
9   cooperative in this proceeding and I think it is  
10  in the public interest and in the interest of my  
11  union that the matters be made clear and I am  
12  here to testify as the Union President.

13          Q       Did you --

14          A       Because a colleague testified as a  
15  Union President it became clear to me that there  
16  is more to it than, there is more to the reality  
17  of what the Union has to say than one man's  
18  opinion.

19                   I am sure that my testimony could be  
20  called another man's opinion. But I have tried  
21  to the extent possible to keep my opinion out of  
22  it and speak to the facts that I know or don't  
23  know.

24          Q       Did you discuss your testimony today  
25  with the Board that oversees the National Union?

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1           A       No. It's his statement.

2           Q       Are you speaking today as Union  
3 President on behalf of the entire Union?

4           A       I am.

5           Q       Okay. And you did not receive any  
6 authorization from the Union as a whole to offer  
7 that opinion, correct?

8           A       I don't -- We don't have that  
9 requirement.

10          Q       Did you ask in any way the opinions of  
11 your members about the DACA process besides what  
12 you have already described?

13          A       I did not but I would like to place  
14 that in context, right. I do not believe that I  
15 am offering an opinion about DACA, the program,  
16 its appropriateness, its legality, whatever.

17                   I have been asked to comment on Mr.  
18 Palinkas's statement. Now one of my comments is  
19 that to the best of my understanding a lot of his  
20 statement is opinion.

21                   It's something that I would, you know,  
22 expect as op-ed piece. He is certainly entitled  
23 to his opinion, but there is a lot of opinion  
24 about the program.

25                   I don't have an opinion about the

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1 program that I am putting forward here, and if I  
2 were to do so I would be canvassing my members,  
3 right.

4 We don't typically put out statements  
5 on public policy except to the extent that the  
6 public policy in question is affecting the  
7 working conditions of our members.

8 And you may have seen statements I  
9 have made about the asylum and refugee program  
10 and I made them with respect to the views that  
11 those employees expected me to put forward and as  
12 they pertain to their working conditions.

13 But I have not been contacted by my  
14 members to advocate on their behalf about the  
15 DACA program.

16 Q Okay. So --

17 A So if my organization was going to  
18 take a position on DACA I would be consulting  
19 with my members and saying, you know, what is our  
20 position on DACA, for, against, should,  
21 shouldn't, et cetera.

22 Q Sure. Have you ever testified before  
23 Congress before?

24 A I have not.

25 Q You have not. Have you ever testified

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1 might be -- they might do 8 or 10 or 12,  
2 depending on the complexity.

3 Adjustment of status, I'm not sure.

4 Q Okay. Why is it important to do such  
5 in depth interviews for asylum purposes?

6 A Because the scope of what you're  
7 discussing is so universal. I mean, you're  
8 looking at identity, looking at manner of entry.

9 You're looking at their documents.  
10 You're looking at their testimony. And, some of  
11 the stories, I mean, in some cases, you're  
12 looking at gathering someone's life story.

13 Where were they born? What tribe?  
14 What about their parents? And, what's the  
15 political party?

16 And, when a lot of the testimony --  
17 when a lot of the decision based on the  
18 testimony, you have to pursue many, many avenues.

19 And, you know, with other types of  
20 immigration interviews, you're looking, again, at  
21 a very limited scope of inquiry.

22 Q You're not testifying on behalf of  
23 USCIS today, are you?

24 A No, I'm not.

25 Q And, you don't speak for the federal



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1 Walker's turn.

2 MR. WALKER: I have no other  
3 questions.

4 MS. PERALES: Oh, you pass? It's my  
5 turn then.

6 MR. WALKER: Yes.

7 MS. PERALES: I only have one  
8 question.

9 CROSS EXAMINATION

10 BY MS. PERALES:

11 Q Mr. Knowles, you spoke a few moments  
12 ago with Mr. Biggs about approval rates.

13 A Mm-hmm.

14 Q And, my question is whether you would  
15 expect different form applications to have the  
16 same approval rate across the Agency?

17 A No, I would not.

18 Q Why not?

19 A Well, I think I said earlier,  
20 comparing the asylum adjudication to DACA is  
21 really apples and oranges, elephants and zebras,  
22 whatever.

23 My reference in my testimony to what  
24 I do is really to talk about what I do. That's  
25 what I know and what I do is very specific to

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1     asylum.

2                   But, there are some things that are  
3     consistent throughout the Agency like security  
4     checks and, you know, performance measures and  
5     accountability and all of those things.

6                   But, I would expect different approval  
7     rates because, and I think I alluded to this in  
8     some of my earlier statements, each form type is  
9     very specific. The scope of it is very  
10    different.

11                  So, you know, when you're adjudicating  
12    a work permit, it's a work permit whether you're  
13    adjudicating an asylum application, it's that.  
14    And there are -- the scope is very different.

15                  For some cases, it's very limited.  
16    And the threshold of -- that one has to meet is  
17    different.

18                  So, you know, in DACA, my limited  
19    understanding is, you know, I'm sure there's all  
20    kinds of subcategories, but it's, you know, age,  
21    time of entry, continuous presence and school  
22    records and military records, et cetera, and  
23    criminal history.

24                  It's a very limited scope because the  
25    program itself is very limited. It's not even a

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1 status, it's a deferred action. Their status is  
2 still they're unlawfully here.

3 Prosecutorial action is deferred, as  
4 I understand it from the public information. I'm  
5 not trying to redefine what DACA is.

6 And, they get a work permit for  
7 dependency of that status. But, it's not even a  
8 status as we commonly understand it. They're  
9 still in unlawful status.

10 So, many applicants that I interview  
11 are not in status, right, when they come to me.  
12 Some are in status.

13 If I deny an applicant asylum who is  
14 not in status, they're actually referred to the  
15 immigration court.

16 If they are in status, they're just  
17 denied asylum and they retain the status that  
18 they have for as long as that status is valid.

19 So, approval rates, I mean, it's the  
20 approval rate should be reflective of, as I said  
21 earlier, to Mr. Biggs, did they qualify or didn't  
22 they? Right? And, if all the people qualify,  
23 well, you would expect there to be a high  
24 approval rate.

25 If they didn't qualify, you would

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1 expect it to be reflective of the caseload.

2 MS. PERALES: Thank you.

3 I pass the witness.

4 MR. BIGGS: I think I have one more or  
5 maybe two --

6 MR. KNOWLES: Sure.

7 MR. BIGGS: -- depends on how we talk  
8 to each other.

9 CROSS EXAMINATION

10 MR. BIGGS: Is it your understanding  
11 that once someone's DACA application is approved  
12 that they maintain an unlawful presence in the  
13 United States?

14 MS. PERALES: Objection,  
15 mischaracterizes the testimony. Objection, calls  
16 for a legal conclusion.

17 MR. BIGGS: You can answer.

18 MR. KNOWLES: Yes, I don't have  
19 personal knowledge of that. I am -- I would  
20 probably say I'm speculating, I'm guessing based  
21 on my knowledge as an asylum officer, when I  
22 interview somebody, I ascertain, what is their  
23 immigration status? Right?

24 So, they're either, you know, entry  
25 without inspection. They're either a current,

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1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript

3 Deposition of: Michael Knowles

4 In the matter of: State of Texas v USA

5 Before: US District Court

6 Date: 08-02-18

7 Place: Washington, DC

8 were duly recorded and accurately transcribed

9 under my direction; further, that said transcript

10 is a true and accurate record of the proceedings;

11 and that I am neither counsel for, related to,

12 nor employed by any of the parties to this action


13 in which this deposition was taken; and further

14 that I am not a relative nor an employee of any

15 of the parties nor counsel employed by the

16 parties, and I am not financially or otherwise

17 interested in the outcome of the action.

18 

19 -----

20 Jennifer Bernardi

21 Court Reporter

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